

ID: CCA_2011110209575947

Number: **201145023**

Release Date: 11/10/2011

Office:

UILC: 6343.00-00, 7433.00-00

From:

Sent: Wednesday, November 02, 2011 9:58:08 AM

To:

Cc:

Subject: FW: Levy question for assignment

We don't actually need consent from the taxpayer to return the funds, per se. If you look at the regs under 301.6343-3(d)(1), we say that for illegal levies it is deemed to be in the taxpayer/US best interest to return funds, and we will return funds. No discretion. However, under 301.6343-3(d)(2), the taxpayer can give us written permission to keep the money applied to a tax liability. So the onus is on the taxpayer to ask us to keep it; otherwise, we return it. I don't think there is any set process for contacting the taxpayer: it makes sense to send a letter explaining the situation advising them we plan to return the proceeds unless they ask us in writing to keep it. There is some stuff in the IRM on the procedures: see IRM 5.11.2.3; 5.11.2.3.4 and 5.

Did you see the e-mail I sent you on Friday? I think that addressed your questions about the 9 month period and 7433. The only wiggle room there really is with the 9 month period under 6343(d) is the date the "determination" was made to return the property, which would be the same date of discovery of the illegal levies. Let me know if you didn't get my Friday email for some reason or you still had questions. I agree with what you say about that below.

Feel free to contact me if other questions come up.